

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant: Dale K. Bell
Serial No.: 09/981,238
Filed: October 17, 2001
Group Art Unit: 3682
Examiner: Julie Knecht Smith
Title: AXLE LUBRICANT ISOLATION

REPLY BRIEF

Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

This is in response to the Examiner's Answer mailed on June 5, 2007. Appellant is resubmitting the Reply Brief previously filed on June 12, 2006.

Claims 1 and 11:

On page 5 of the Examiner's Answer, the Examiner argues that "Applicant has misinterpreted the Final Rejection because the Glaze reference was not used to teach the claimed seal arrangement, but was used to teach the basic structure of a conventional differential assembly." However, the Examiner must look at the teachings of the references as a whole, otherwise the Examiner is merely picking and choosing elements to make the rejection. Here, the Examiner cannot simply ignore the particular structure or problems faced in Glaze, which is being used as the base reference.

CERTIFICATE OF FACSIMILE

I hereby certify that the Reply Brief is being facsimile transmitted to the United States patent and Trademark Office, fax number (571) 273-8300 on August 6, 2007.


William Gottschalk

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Glaze is concerned with lubricating an interaxle differential, which is shown in Figure 5, during initial start-up conditions in particular (see Abstract). Glaze achieves this goal by employing a secondary sump with cup member 322 (see last paragraph in column 7). Miller contributes no beneficial teaching to this problem. Thus, splash lubricating becomes highly effective with this arrangement by retaining lubrication in near the top of the axle so that the upper bearings are not starved. This contradicts Miller, which states at column 1, lines 18-22 that splash lubrication is not effective. As a result, when looking at Miller in the context of Glaze, which is the base reference, there is no reason for one of ordinary skill to modify Glaze.

Claims 3-5:

On page 6 of the Examiner's Answer, the Examiner argues that "the claim terminology was broadly interpreted" to reject the claims. Applicant fails to see how "pinion," "through shaft" and "input" can be interpreted as the same element. To do so would ignore that the words have different plain meanings.

Claim 6 and 7:

On page 6 of the Examiner's Answer, even assuming the Examiner's argument with respect to claim 1 is correct there is no teaching that requires the seal to be arranged between the bearing and a cage. That is, nothing in the references requires the use of a cage.

Claim 8:

There is no teaching to modify Glaze or Miller to use a GL5 additive specifically. GL5 merely being mentioned in Tesigni does not rise to the level of providing a motivation to modify either reference.

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CLOSING

For the reasons set forth above, the final rejection of all claims is improper and must be reversed. An early indication of such is earnestly solicited.

Respectfully submitted,



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Dated: _____

8/6/07